



UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

525 MAGOFFIN AVE.
EL PASO, TEXAS 79901
(915) 534-6736

Chambers Of
PHILIP R. MARTINEZ
United States District Judge

May 10, 2018

John P. Calhoun
700 E. San Antonio D-401
El Paso, TX 79901

Christopher Kirk Mangels
700 San Antonio, Suite 200
El Paso, TX 79901

TRIAL LETTER

Re: *United States v. Mendez-Euca*
No. EP:18-CR-947

Counsel:

You currently have jury selection and trial scheduled for **May 29, 2018 at 9:00 a.m.** Counsel is advised that, unless otherwise ordered by the Court, all pretrial motions and related matters will be heard by the Court **30 minutes before** the scheduled start time; all parties and attorneys of record must attend this pretrial hearing. This letter is sent to inform you of courtroom practices and procedures. It is therefore advisable that counsel review the following information carefully:

A. Plea Deadlines

The Court recognizes that it is within the Government's discretion to determine when and if plea negotiations will be conducted. However, for purposes of the deadlines stated herein and given the Court's sizable docket and the need for efficient management of resources, leave of Court is required to file plea agreements **after May 11, 2018 at 5:00 p.m.**¹

¹ Nothing herein should be construed as a requirement that a plea agreement be offered.

The Court will also require the defendant to meet the following deadlines if the defendant intends to plead guilty in order to receive the adjustment for acceptance of responsibility. In a case where a plea agreement will be filed, the Court will require that said plea agreement be filed **no later than May 17, 2018 at 5:00 p.m.** In a case where no plea agreement will be filed, the Court will require the defendant to give written notice to the Court of the defendant's intent to plead guilty **no later than May 17, 2018 at 5:00 p.m.**, and to complete the plea hearing before the scheduled date of jury selection. If the defendant fails to meet these requirements, the defendant will not receive the adjustment for acceptance of responsibility. If the defendant decides to enter a plea of guilty, please fax a written request for a plea setting to chambers (915-534-6715) by **no later than May 17, 2018 at 5:00 p.m.**, so that the Court may provide you with a plea date.

B. Pretrial Submissions

Should the case proceed to trial, the Court requires that any questions, instructions that can be reasonably anticipated, and any and all matters that you wish the Court to consider be filed **no later than May 18, 2018 at 12:00 p.m.** **Parties may not file any addendum, supplement, or other modification to filings after the deadline without first obtaining leave of Court.** If the Court is to make a determination on an issue, or if counsel wishes to submit a document for the record, the relevant materials should be electronically filed; otherwise, each party must provide the Court with the following information via email to the Court's law clerks:

- (1) **Any and all** motions, including motions for continuance of trial date and motions in limine (no additional motions will be considered without leave of the Court); this does **not** relieve any party from meeting deadlines otherwise set forth in the Federal Rules of Criminal Procedure or the Western District of Texas Rules;
- (2) A list of finalized stipulated facts, if any;
- (3) The Government must provide a list identifying each exhibit (except those to be used for impeachment only). The Defense may provide a list of the same, but submitted under seal and ex parte;
- (4) The Government must provide a list containing the names of each witness it might call during its case in chief. The Defense must provide a list of the same, but submitted under seal and ex parte;
- (5) Specific sections of the Fifth Circuit Pattern Jury Charge (referenced by the corresponding section number, e.g., 1.04)² and the full text of any non-Fifth Circuit Pattern Jury Charge section including an appropriate citation, that the parties propose that the Court consider;
- (6) A proposed list of voir dire questions;
- (7) An estimate of the length of trial; and
- (8) In non-jury trials, Proposed Findings of Fact and Conclusions of Law.

² If the parties wish for the Court to consider information in the "Notes" section of a pattern charge, they must include the full text of the "Notes" with their proposed instructions.

C. Daily Schedule

The Court may conduct proceedings until late in the evening and on weekends. As such, counsel should be prepared to present evidence after normal business hours. In any event, the Court will endeavor to inform the parties in advance if testimony will be heard past 6:00 p.m. or on weekends.

D. Voir Dire

In some cases, the Court may allow the parties to address the jury panel. In such cases, the parties must remain at the lectern and may not approach the panel, nor may they invite any panel member to participate in a hypothetical scenario that requires them to place themselves in a situation similar to any party.

E. Opening Statements

The Court will limit opening statements to about ten minutes per side. Only in special circumstances (for example, multiple plaintiffs or defendants) will the Court consider allowing additional time for opening statements.

F. Exhibits

Counsel should have exhibits organized in an appropriately tabbed binder. Counsel should prepare five separate binders: one each for the Judge, the court reporter, the law clerk, the witness stand, and opposing counsel (in addition to the exhibits submitted for the record). Counsel should also include a list of all exhibits with a space to mark whether or not the exhibit was offered and whether or not it was admitted. Keep in mind that, due to the availability of exhibit monitors for the Judge and the witness, the Court will **rarely allow** approaches to the witness during the proceedings. Also, all exhibits should be suitable in size and/or format to be presented on the exhibit monitors.

The Court uses the Jury Evidence Recording System (“JERS”) in the courtroom. This application works in conjunction with the courtroom evidence presentation equipment by allowing the Court to capture and release to the jury admitted evidence that is presented by attorneys during a jury trial. Upon completion of evidence presentation by the parties, the Court will release the admitted exhibits to the jurors in the jury deliberation room where they can view the admitted exhibits using a touch screen monitor. In addition to preparing exhibit binders, **counsel should submit exhibits electronically prior to the beginning of jury selection** by using the attached JERS Exhibit Submission Requirements document as a reference on how exhibit files should be formatted to allow for an electronic batch import of the exhibits.

G. Control of Proceedings

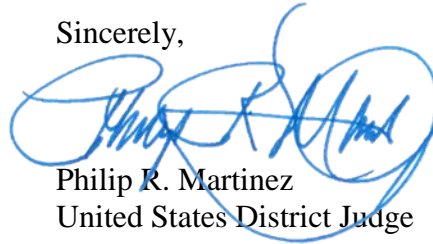
The Court maintains complete control over courtroom proceedings. **Bench conferences will be held to a minimum.** The parties should anticipate matters that need to be raised before trial and should consult immediately with the law clerk so as to allow the Court time to

accommodate hearing such matters. If counsel asks for “one more question” of a witness, the Court will allow that and no more. If counsel makes a prediction regarding when he or she will close, the Court may enforce that prediction. Unless given permission by the Court, counsel must remain at the lectern at all times when addressing a witness, the jury, or the Court.

IN ADDITION TO FILING THE PRETRIAL SUBMISSIONS, THE PARTIES MUST SUBMIT TO THE COURT A COURTESY COPY OF ALL PRETRIAL SUBMISSIONS AND EXHIBITS, APPROPRIATELY TABBED AND COMPLETE, BY May 22, 2018.

If you have any questions, please feel free to contact my law clerk at (915) 534-6736 or LawClerk_Martinez@txwd.uscourts.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Philip R. Martinez", is written over a circular blue stamp or seal.

Philip R. Martinez
United States District Judge

PRM: ZNZ

cc: Sam Armengol

VIA EMAIL

Sam_Armengol@txwp.uscourts.gov

Exhibit Submission Requirements for Batch Importing Purposes

Guidelines for submitting exhibits prior to trial:

File Naming Method

All files are provided on a single storage device such as a CD, DVD, or USB drive

Using any software or method, exhibit files are renamed using the following naming convention:

<exhibit number>-<exhibit part>_<exhibit description>.<file extension>
[If applicable]

Note: The use of the “underscore” character is required when an optional description of the exhibit is included and cannot be used elsewhere in the exhibit name.

Examples of valid exhibit file names:

- 1_photograph.jpg
- 1-a_photographmarked.jpg
- 12_2009 Tax Return.pdf
- 12-a_Schedule F.pdf
- 12-b_Schedule H.pdf
- 24_camera footage.wmv

For your convenience, an illustration is also provided below to indicate valid file naming conventions for this purpose.

Name	Date Modified	Size	Type
1_Hotel Receipt.pdf	3/19/2009 12:29 PM	61 KB	Adobe Acrobat Document
3_PhotoGraph of Bank Interior.JPG	5/12/2010 3:49 PM	60 KB	SnagIt Editor Image
4_Diagram of House.pdf	3/19/2009 12:35 PM	10 KB	Adobe Acrobat Document
5a_Video of Explosion.mpg	3/17/2009 3:14 PM	12,902 KB	Movie file (mpeg)
6(a)_Photograph of Burning Exterior of House.jpg	3/19/2009 12:40 PM	246 KB	SnagIt Editor Image
6(b)_Photograph of Damaged Exterior of House.jpg	3/19/2009 12:42 PM	217 KB	SnagIt Editor Image
6(c)_Photograph of Damaged Interior of House.jpg	3/19/2009 12:38 PM	155 KB	SnagIt Editor Image
7_Police Car Video.mpg	9/8/2009 10:59 AM	21,589 KB	Movie file (mpeg)
8-e_Police Radio.wav	9/8/2009 10:59 AM	2,023 KB	WAVE Audio File
9_Photograph of Gun.pdf	9/8/2009 10:59 AM	3,439 KB	Adobe Acrobat Document
10_Photograph of Gun Close-up.pdf	5/12/2010 3:57 PM	2,912 KB	Adobe Acrobat Document
11_Photograph of Cell Phone.pdf	5/12/2010 3:58 PM	3,287 KB	Adobe Acrobat Document
12_Crime Lab Report.pdf	5/12/2010 4:24 PM	54 KB	Adobe Acrobat Document
13_Miranda Form.pdf	5/12/2010 3:42 PM	72 KB	Adobe Acrobat Document